

**SUMMARY OF THE OFFICE ACTION**

Claims 36-43 have been allowed.

Claims 44-66 have been rejected under 35 USC 102(b) as anticipated by Kelley (US Patent No. 5,431,399). It is asserted that each and every limitation of the claims is anticipated by Kelley.

### **ARGUMENTS AGAINST THE REJECTION**

Claims 44-66 have been rejected under 35 USC 102(b) as anticipated by Kelley (US Patent No. 5,431,399). It is asserted that each and every limitation of the claims is anticipated by Kelley.

The Final Rejection asserts that "a single delivery tray" is not limited to "only one delivery tray" as would language such as "consisting of a single delivery tray." Although Applicant's disagree, and assert that the complete context of "a single delivery tray" and the delivery of subsequent hands into "the single delivery tray" clearly distinguishes from Kelley, Applicants have proposed the amendments to the claims such that the delivery is to an area consisting of a single delivery tray which would apparently place the application in condition for allowance.

It is believed that even if the amendment is not accepted, the file history and the total context of the limitation establishes novelty and unobviousness over Kelley as shown below.

#### **The Examiner's Comments on Page 3 of the Final Rejection**

The final rejection asserts, with natural emphasis that:

"...Kelley discloses an apparatus for delivering hands of randomly mixed cards. A deck of playing cards is provided in a loading area 2, 3, 4. An area 24 in the apparatus comprising a pinch roller 19, photo sensor 20, processor 26, motor 21, and displacement cam 22, **distributes the cards contributing to the forming of at least one set (hand) of playing cards...**col. 7, line 44 to col. 8, line 7. The apparatus further comprises a plurality of delivery trays or card receiving compartments 12. Thus there is **at least a single delivery tray 12...**The motor 21 and displacement cam 22 delivers a set of randomly mixed playing cards to a single delivery tray 12. The formed set of randomly mixed playing cards from the single delivery tray is manually withdrawn and delivered to a player, with all playing cards in the individual set delivered at the same time, col. 8, lines 11-14. A second set of randomly mixed playing cards is formed within the same delivery tray after the first set of cards is removed from the single delivery tray."

The exact limitations in the claims that are not shown by Kelley will be specifically highlighted below, but a brief technical distinction between the two systems will be helpful in preparing for an appreciation of those arguments.

Kelley teaches a dealing module in which cards are provided in a first card receiver and then cards are individually directed along a moveable chute to a multiplicity of card delivery trays. The system of Kelley cannot function without the multiplicity of card delivery trays, and direct transporting of cards from the card receiver to the multiplicity of delivery trays is the only hand forming mechanism shown.

The system of the presently claimed technology teaches a dealing module in which cards are first provided in a first card receiver, then cards are moved to form sets of randomized cards in multiple trays within the module, and then sets of cards are unloaded into a single delivery tray to form a hand that is then removed. Hands are removed one-at-a-time from the one and only delivery tray. Additional single hands are then formed in the same delivery tray after a previous hand was removed. As can be seen, the two mechanisms are substantively and functionally different.

**Comparison of Kelley and Claims in This Application**

CLAIM 44	KELLEY	COMMENTS
44. A method for delivering hands of randomly mixed cards from an apparatus comprising: providing at least one deck of playing cards;	A playing card distribution device with microprocessor and scanning circuits. The device has an enclosure for holding a deck of cards	
forming at least one set of cards within the apparatus from the at least one deck of playing cards;	"Underneath this compartment are five holding receptacles with notched base 13 and end 12 to hold the cards after they pass through the device."	Multiple trays for removal of cards are required in all variations of Kelley. The hand forming compartments of Kelley can be argued to be a plurality of card-receiving compartments. This is the only step where Kelley forms at least one set of cards.
delivering to a single	Kelley has already	This factor becomes of

<p><u>delivery tray from the at least one set of cards within the apparatus a first individual set of randomly mixed playing cards for use in a game;</u></p>	<p>delivered a set of cards to the at least one tray. This claim requires that cards be further delivered FROM THE SET to a single tray. The claim requires that cards be delivered from the at least one set as a random set to a single tray. Kelley has delivered cards to final trays. They are not further delivered to a single tray. .</p>	<p>even greater importance in the consideration of novelty. Kelley forms sets <u>directly</u> from the at least one deck of cards. Those sets are not further manipulated by the device and therefore the claim cannot be anticipated.</p>
<p><u>delivering to a player or dealer the first individual set of randomly mixed playing cards from the single delivery tray of the apparatus, with all cards in the first individual set delivered at the same time, and then providing a second individual set of randomly mixed playing cards into the single delivery tray.</u></p>	<p>There is absolutely no equivalent element or function in Kelley. There can be no anticipation.</p>	<p>To provide random cards in Kelley, cards must be delivered among the multiple trays in Kelley. Kelley delivers cards from the deck to the final trays. The claims require that cards from the deck are delivered as an at least first set within the device. Cards from the at least first set must (according to claim 44) then be delivered to a single delivery tray. Kelley never moves cards (a first set) from one tray to another tray. The claim is not anticipated.</p>

As can be seen, Kelley operates in a fundamentally different manner and does not anticipate the claim.

Kelley does not form an at least first set of cards from a deck and then move cards from the at least first set to a single delivery tray.

Kelley cannot replace all delivered cards in a single tray, because when a hand is removed in Kelley, the complete deck has been dealt. This again disables any capability of the system to provide a subsequent hand to a single tray when the first hand has been removed. As Kelley teaches his device solely for use with the card game of bridge, a hand is always 13 cards, and to reach that number in each tray of randomly

distributed cards, the 52 cards in the deck must be exhausted from the input tray. A second hand could not be constructed within the single output tray, even if commanded by the system of Kelley, which it is not.

Independent Patentability of Claim 45

First, claim 45 is dependent from claim 39 which has been allowed. That claim, further limiting claim 39, must be allowed.

45. (PREVIOUSLY PRESENTED) The method of claim 39 wherein individual sets of randomly mixed playing cards are delivered to the single delivery tray and the single delivery tray in the apparatus can be accessed so that two edges of cards in the delivery tray can be contacted by a hand of a dealer.

The highlighted text is completely missing from Kelley. Kelley's hands can only be accessed within the tray along a single edge.

Independent Patentability of Claim 49

First, claim 45 is dependent from claim 38 which has been allowed. That claim, further limiting claim 38, must be allowed.

49. (PREVIOUSLY PRESENTED) The method of claim 38 wherein each set of randomly mixed playing cards delivered from the apparatus to the tray is then delivered to a position on a gaming table that is distinct from a position where another set of randomly mixed playing cards is delivered from that same tray in a single card game.

The highlighted text is completely missing from Kelley.

Independent Patentability of Claim 51

51. (PREVIOUSLY PRESENTED) A method in an apparatus for delivering hands of randomly mixed cards comprising:

- providing at least one deck of playing cards in the apparatus;
- forming a first group of randomly mixed playing cards in a single delivery tray,
- with all cards in the group present in the single delivery tray at the same time;

removing the group of randomized cards from the single delivery tray; and forming a second individual group of randomly mixed playing cards within the same single delivery tray after the first group of randomized cards are removed and put into play to form a hand for another player or dealer at the table in a single card game.

Again, as identically argued above with respect to claim 44, Kelley must form hands of 13 cards in each of the four trays to be able to form random hands. Once a random hand has been formed and completed in a single tray, no second hand is or can be formed in that single tray in a single card game. There is absolutely no teaching or capability of that step in Kelley.

The highlighted text is completely missing from Kelley.

Independent Patentability of Claim 53

53. (PREVIOUSLY PRESENTED) The method of claim 51 wherein after at least one individual hand is manually removed from the delivery tray, another individual hand is automatically delivered from the apparatus to the delivery tray.

The automatic function is completely absent from Kelley based upon the removal of cards. Claim 51 is also basis of allowability as discussed above. Kelley operates in a single initiated process with the entire deck exhausted in delivering the four hands of 13 cards each into the four trays.

The highlighted text is completely missing from Kelley.

As can be readily seen by the detailed literal comparison, every single independent claim contains substantive limitations that are not disclosed by Kelley. Numerous other dependent claims, even if dependent from claims that were anticipated by Kelley (which they are not), would not be anticipated because of their additional limitations.

These claims are not anticipated by Kelley.

Independent Patentability of Claims 61 and 62

Both claims contain the limitation that

cards within the same single delivery tray after the first group of randomized cards are removed in the play of a single round of cards. “

This established patentability for the same reasons that claim 51 was argued as novel directly above.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance. The Examiner is invited to telephone Applicant's attorney (953)832.9090 to facilitate prosecution of this application.

Respectfully submitted,  
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CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, by facsimile, addressed to: Mail Stop AF, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on  
22 MARCH 2007

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